

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Sheng-Wen Cheng,

File No. 23-cv-2852 (ECT/DJF)

Petitioner,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Warden Jared Rardin,

Respondent.

Petitioner Sheng-Wen Cheng commenced this action *pro se* by filing a petition for a writ of habeas corpus. ECF No. 1. After pleading guilty to four counts of fraud, Mr. Cheng was sentenced to seventy-two months of imprisonment, followed by three years of supervised release and removal from the United States. *See United States v. Cheng*, No. 21-cr-261-RA (S.D.N.Y. Aug. 19, 2021) at ECF Nos. 33–34. Mr. Cheng’s habeas petition challenges the Bureau of Prison’s finding that Mr. Cheng is ineligible for placement in a Residential Reentry Center (“RRC”). ECF No. 1 at 3. Mr. Cheng also filed a request for this Court to order the Respondent to show cause why his petition should not be granted. ECF No. 18.

The case is now before the Court on a Report and Recommendation issued by Magistrate Judge Dulce J. Foster. ECF No. 19. Magistrate Judge Foster recommends denying Mr. Cheng’s petition for several reasons. First, the challenge is premature because Mr. Cheng is entitled to *at most* twelve months in RRC, and he has about eighteen months remaining in custody. *Id.* at 4–5; *see also* Fed. Bureau of Prisons, *Find an Inmate*,

<https://www.bop.gov/inmateloc/> (last visited Mar. 22, 2024) (indicating Mr. Cheng's release date is September 27, 2025). Second, courts in this District have repeatedly held that the Bureau of Prisons has exclusive authority to determine placement of prisoners and such decisions are not subject to judicial review. R. & R. at 5; *see also Garcia v. Eischen*, No. CV 22-444 (SRN/BRT), 2022 WL 4084185 (D. Minn. Aug. 16, 2022), *report and recommendation adopted*, No. 22-CV-444 (SRN/BRT), 2022 WL 4080751 (D. Minn. Sept. 6, 2022). Third, a habeas petition is not the appropriate vehicle to challenge a prisoner's conditions or place of confinement. R. & R. at 6–7; *see also Fiorito v. Fikes*, No. 22-cv-0749 (PJS/TNL), 2022 WL 16699472, at *3 (D. Minn. Nov. 3, 2022), *aff'd*, No. 23-1006, 2023 WL 4841966 (8th Cir. July 28, 2023).

Mr. Cheng filed objections to the Report and Recommendation and two exhibits. ECF Nos. 30–31. Respondent filed a very short response to the objections, confirming Respondent's view that the Report and Recommendation "should be adopted in its entirety." ECF No. 32. Because Mr. Cheng has objected, the Court is required to review the Report and Recommendation *de novo* pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3). The Court has undertaken that *de novo* review and has concluded that Magistrate Judge Foster's analysis and conclusions are correct.

Therefore, based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. Petitioner Sheng-Wen Cheng's Objections to the Report and Recommendation [ECF No. 30] are **OVERRULED**.
2. The Report and Recommendation [ECF No. 19] is **ACCEPTED**.

3. Petitioner's request for habeas corpus relief under 28 U.S.C. § 2241 [ECF No. 1] is **DENIED**.

4. Petitioner's Motion to Order the Respondent to Show Cause [ECF No. 18] is **DENIED**.

5. This matter is **DISMISSED** without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 25, 2024

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court